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AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 87

**Introduced by Assembly Member Bermudez
(Principal coauthor: Assembly Member Maze)
(Coauthors: Assembly Members Benoit, Daucher, DeVore,
Emmerson, Leslie, Mountjoy, Parra, and Sharon Runner)
(Coauthor: Senator Machado)**

January 6, 2005

An act to amend Sections 8564, 8565, ~~and 8565.5~~ 8565.5, and 8566 of, and to add ~~Section 8565.7~~ *Sections 8565.7 and 8565.8* to, the Business and Professions Code, and to amend Section 4005 of the Fish and Game Code, and to amend Sections 11702, 12203, and 14153 of, and to add ~~Section 14153.2~~ *Sections 14153.2 and 14153.3* to, the Food and Agricultural Code, relating to trapping licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 87, as amended, Bermudez. Trapping licenses: exemptions.

Existing law requires every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the Fish and Game Commission or who sells the raw furs of those mammals, to procure a trapping license from the Department of Fish and Game.

Existing law provides for the licensing by the Structural Pest Control Board of individuals who practice structural pest control.

Existing law also provides for the licensing by the Department of Pesticide Regulation of various persons and businesses who apply pesticides.

This bill would exempt a structural pest control operator licensed by the Structural Pest Control Board and a person or business licensed or certified by the Department of Pesticide Regulation from the licensing requirement for trapping mammals *upon the adoption and implementation of regulations by the Structural Pest Control Board, as provided specified.*

Existing law prescribes the procedures to obtain pest control field representative and applicator licenses.

This bill would require an applicant seeking a general pest, Branch 2, field representative's license to have had training and experience that includes the management of vertebrate pests and training on applicable ~~fish and game~~ regulations, and would require an operator applicant to have adequate knowledge of the same *demonstrated by written examination* and to have satisfactorily passed board-approved courses in that area. *This bill would also require the board to ascertain by written examination that an applicant for a license as a field representative has knowledge of management of vertebrate pests and applicable codes and regulations governing trapping of mammals.*

Existing law requires persons licensed or certified by the Department of Pesticide Regulation meet certain requirements, as specified.

This bill would require that in addition, persons licensed or certified by the department be trained and tested in applicable ~~fish and game~~ regulations governing trapping of mammals.

This bill would also require the Structural Pest Control Board and the Department of Pesticide Regulation to ~~adopt regulations by July 1, 2006,~~ *work in conjunction with the Department of Fish and Game to formulate regulations* that apply to licensees authorized to engage in pest control activities who trap animals, as specified *and then to adopt those regulations by July 1, 2006.* This bill would, in addition, require licensees to file reports, would make the reports filed by licensees public, and would permit the suspension of a license if licensees fail to file or file incomplete reports.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 8564 of the Business and Professions Code is amended to read:

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him or her.

(c) The name of the person by whom the applicant is employed.

(d) The name of the registered company by which the applicant is to be employed.

(e) The fees prescribed by this chapter.

The board shall not accept any application for a field representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, including the management of vertebrate pests and training on applicable ~~fish and game~~ codes and regulations governing trapping of mammals, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits

1 proof satisfactory to the board that he or she has had training and
2 experience in the practice of pesticide application, Branch 3 pest
3 identification and biology, pesticide application equipment,
4 pesticide hazards and safety practices, structural repairs, and
5 structural inspection procedures and report writing under the
6 immediate supervision of an operator or field representative
7 licensed in Branch 3, or the equivalent of that training and
8 experience.

9 SEC. 2. Section 8565 of the Business and Professions Code is
10 amended to read:

11 8565. The board shall ascertain by written examination that
12 an applicant for a license as operator is qualified in the use and
13 understanding of all of the following:

14 (a) The English language, including reading, writing, and
15 spelling.

16 (b) The building and safety laws of the state and any of its
17 political subdivisions, if the branch or branches of pest control
18 for which he or she is applying, require that knowledge.

19 (c) The labor laws of the state.

20 (d) The provisions of this chapter.

21 (e) Poisonous and other dangerous chemicals used in pest
22 control, if the branch license or licenses for which he or she is
23 applying, require that knowledge.

24 (f) The theory and practice of the branch or branches of pest
25 control in which the applicant desires to be licensed.

26 (g) Other state laws, safety or health measures, or practices
27 that are reasonably within the scope of structural pest control in
28 the various branches. This shall include an applicant's knowledge
29 of the requirements regarding health effects and restrictions on
30 applications, as set forth in Section 8538, and for Branch 2
31 applicants, the applicant's knowledge of the management of
32 vertebrate pests and applicable ~~fish and game~~ codes and
33 regulations governing trapping of mammals.

34 SEC. 3. Section 8565.5 of the Business and Professions Code
35 is amended to read:

36 8565.5. (a) An applicant for a Branch 1 operator's license
37 shall demonstrate to the board that he or she has passed
38 satisfactorily board-approved courses in the following areas:

39 (1) Pesticides.

40 (2) Pest identification and biology.

1 (3) Contract law.

2 (4) Rules and regulations.

3 (5) Business practices.

4 (6) Fumigation safety.

5 (b) An applicant for a Branch 2 operator's license shall
6 demonstrate to the board that he or she has passed satisfactorily
7 board-approved courses in the following areas:

8 (1) Pesticides.

9 (2) Pest identification and biology, including the management
10 of vertebrate pests. This training shall address the applicable fish
11 and game codes and regulations governing trapping of mammals.

12 (3) Contract law.

13 (4) Rules and regulations.

14 (5) Business practices.

15 (c) An applicant for a Branch 3 operator's license shall
16 demonstrate to the board that he or she has passed satisfactorily
17 board-approved courses in the following areas:

18 (1) Pesticides.

19 (2) Pest identification and biology.

20 (3) Contract law.

21 (4) Rules and regulations.

22 (5) Business practices.

23 (6) Construction repair and preservation techniques.

24 The board shall develop a correspondence course or courses
25 with any educational institution or institutions as it deems
26 appropriate. These courses may be used to fulfill the
27 requirements of this section. The institution may charge a
28 reasonable fee for each course.

29 SEC. 4. Section 8565.7 is added to the Business and
30 Professions Code, to read:

31 8565.7. (a) *The Structural Pest Control Board shall work in*
32 *conjunction with the Department of Pesticide Regulation and the*
33 *Department of Fish and Game to formulate regulations that*
34 *apply to board licensees who are authorized to engage in pest*
35 *control activities and who engage in trapping animals.*

36 (b) *The regulations shall ensure the competence and*
37 *proficiency in the trapping of rats, mice, moles, voles, gophers,*
38 *squirrels, chipmunks, skunks, and opossums.*

39 (c) *Regulation topics should include, but not be limited to,*
40 *species identification, alternatives to trapping, humane treatment*

1 of trapped animals, and notification to consumers of lawful
2 disposition of animals prior to services being rendered.

3 (d) The Structural Pest Control Board shall incorporate those
4 regulations into required training and testing materials.

5 (e) Paragraph (2) of Section 4005 of the Fish and Game Code
6 shall not become operative until the above regulations are
7 adopted and enacted.

8 SEC. 5. Section 8565.8 is added to the Penal Code, to read:

9 8565.8. (a) The Structural Pest Control Board shall adopt
10 regulations on or before July 1, 2006, that apply to its licensees
11 who are authorized to engage in pest control activities and who
12 engage in trapping of animals. The regulations shall require an
13 annual report from those licensees on their animal trapping
14 activities that includes, but is not limited to, the following: the
15 identification of species taken, the location by county in which
16 the species were taken, the disposition of each animal taken
17 including the method of euthanasia, if applicable, the specific
18 method of trapping which was used, including whether the
19 trapping was live-animal trapping, and identify whether animal
20 exclusion techniques were used prior to the use of trapping or
21 other lawful pest control techniques.

22 (b) The regulations shall specify that the reports filed by the
23 licensees shall be public information.

24 (c) The regulations shall provide that the failure to file a report
25 or the filing of an incomplete report shall result in the suspension
26 of a license. The licensing agency may revoke or reinstate the
27 license after written notice is provided to the licensee and after he
28 or she has been afforded an opportunity to be heard.

29 SEC. 6. Section 8566 of the Business and Professions Code is
30 amended to read:

31 8566. The board shall ascertain by written examination that
32 an applicant for a license as field representative is qualified in the
33 use and understanding of the following:

34 (a) The safety laws of the state, if the branch or branches of
35 pest control for which he or she is applying, require that
36 knowledge.

37 (b) The provisions of this chapter.

38 (c) Poisonous and other dangerous chemicals used in pest
39 control, if the branch or branches of pest control for which he or
40 she is applying, require that knowledge.

1 (d) The theory and practice of pest control in the branch or
2 branches thereof for which the applicant desires to be licensed.

3 (e) Other state laws, safety or health measures, or practices as
4 are reasonably within the scope of structural pest control in the
5 various branches.

6 *(f) Management of vertebrate pests and applicable codes and*
7 *regulations governing trapping mammals.*

8 ~~SEC. 5.—~~

9 *SEC. 7.* Section 4005 of the Fish and Game Code is amended
10 to read:

11 4005. (a) Except as otherwise provided in this section, every
12 person, other than a fur dealer, who traps fur-bearing mammals
13 or nongame mammals, designated by the commission or who
14 sells raw furs of those mammals, shall procure a trapping license.
15 “Raw fur” means any fur, pelt, or skin that has not been tanned or
16 cured, except that salt-cured or sun-cured pelts are raw furs.

17 (b) The department shall develop standards that are necessary
18 to ensure the competence and proficiency of applicants for a
19 trapping license. No person shall be issued a license until he or
20 she has passed a test of his or her knowledge and skill in this
21 field.

22 (c) Persons trapping mammals in accordance with Section
23 4152 or 4180 are not required to procure a trapping license
24 except when providing trapping services for profit.

25 (d) No raw furs taken by persons providing trapping services
26 for profit may be sold.

27 (e) The license requirement imposed by this section does not
28 apply to any of the following:

29 (1) Officers or employees of federal, county, or city agencies
30 or the department, when acting in their official capacities, or
31 officers or employees of the Department of Food and Agriculture
32 when acting pursuant to the Food and Agricultural Code
33 pertaining to pests or pursuant to Article 6 (commencing with
34 Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food
35 and Agricultural Code.

36 ~~(2) Structural pest control operators licensed pursuant to~~

37 *(2) Branch 2 structural pest control operators and field*
38 *representatives licensed pursuant to Chapter 14 (commencing*
39 *with Section 8500) of Division 3 of the Business and Professions*
40 *Code when trapping rats, mice, moles, voles, gophers, squirrels,*

1 chipmunks, skunks, and opossums. *This exemption shall only*
2 *become operative upon the adoption and implementation of*
3 *Structural Pest Control Board regulations governing the*
4 *trapping of these mammals.*

5 (3) Persons and businesses licensed or certified by the
6 Department of Pesticide Regulation pursuant to Chapter 4
7 (commencing with Section 11701) and Chapter 8 (commencing
8 with Section 12201) of Division 6 of, and Chapter 3.6
9 (commencing with Section 14151) of Division 7 of, the Food and
10 Agricultural Code when trapping rats, mice, moles, voles,
11 gophers, squirrels, chipmunks, skunks, and opossums.

12 ~~SEC. 6.—~~

13 SEC. 8. Section 11702 of the Food and Agricultural Code is
14 amended to read:

15 11702. Applicants for a pest control business license shall do
16 all of the following:

17 (a) Submit information to the director covering the applicant's
18 business and personal qualifications that the director requires.

19 (b) Designate in the application the qualified applicator who
20 shall be responsible for the conduct of the principal office of the
21 applicant and of each branch location.

22 (c) Satisfy the director of the responsibility of the applicant as
23 to any of the following:

24 (1) Equipment and facilities.

25 (2) Financial ability to perform the work authorized by the
26 license and to respond in damages for any illness, injury, or
27 damage resulting from the work, which ability may be satisfied
28 by insurance in a form satisfactory to the director insuring
29 against liability for personal injury and property damage in an
30 amount prescribed by regulation of the director. The amount
31 shall be related to the volume and type of pest control operations
32 for which the applicant is licensed to perform.

33 (3) Personal responsibility to conduct the business.

34 (4) His or her training and testing in applicable ~~fish and game~~
35 codes and regulations governing trapping of mammals.

36 The director shall establish by regulation the general classes of
37 pest control operations in which the applicant may be qualified.

38 Licensing by the director shall not derogate from the authority
39 of commissioners stated in Sections 11731 to 11741, inclusive.

1 ~~SEC. 7.—~~

2 *SEC. 9.* Section 12203 of the Food and Agricultural Code is
3 amended to read:

4 12203. (a) Applicants shall be examined on the requirements
5 of laws and regulations concerning pesticide use and shall elect
6 to be examined for licensing in one or more of the following
7 categories:

8 (1) Residential, industrial, and institutional pest control.

9 (2) Landscape maintenance pest control.

10 (3) Right-of-way pest control.

11 (4) Agricultural pest control.

12 (5) Forest pest control.

13 (6) Aquatic pest control.

14 (7) Regulatory pest control.

15 (8) Seed treatment.

16 (9) Agricultural pest control—animal.

17 (10) Demonstration and research.

18 (11) Health-related pest control.

19 (b) In addition to being licensed in one or more of the
20 categories in subdivision (a), an applicant for licensing may elect
21 to be trained in the handling, control, and techniques of removal
22 of Africanized honey bees.

23 (c) The director may develop a training program that covers
24 the handling, control, and techniques of removal of Africanized
25 honey bees or may approve a training program developed by the
26 Pest Control Operators of California or any other equivalent
27 training program, subject to the following requirements:

28 (1) A certificate of training shall be presented by the training
29 provider to the applicant upon completion of the approved
30 training program.

31 (2) Providers of approved Africanized honey bee training shall
32 submit to the director a listing of those persons who have
33 completed the training, including, but not limited to, the
34 following information:

35 (A) The full name of each person who has completed the
36 training.

37 (B) The license or certificate number of each person who has
38 completed the training, if the person trained is licensed by the
39 Department of Pesticide Regulation.

(3) The providers of approved Africanized honey bee training shall maintain a record for three years of the individuals who have completed the training.

(d) In addition, persons licensed by the Department of Pesticide Regulation shall be trained and tested in applicable fish and game codes and regulations governing trapping of mammals.

~~SEC. 8.—~~

SEC. 10. Section 14153 of the Food and Agricultural Code is amended to read:

14153. (a) Applicants shall be examined on the requirements of laws and regulations concerning pesticide use and shall elect to be examined for certification in one or more of the following categories:

- (1) Residential, industrial, and institutional pest control.
- (2) Landscape maintenance pest control.
- (3) Right-of-way pest control.
- (4) Agricultural pest control.
- (5) Forest pest control.
- (6) Aquatic pest control.
- (7) Regulatory pest control.
- (8) Seed treatment.
- (9) Agricultural pest control—animal.
- (10) Demonstration and research.
- (11) Health-related pest control.

(b) In addition to being certified in one or more of the categories in subdivision (a), an applicant may elect to be trained in the handling, control, and techniques of removal of Africanized honey bees.

(c) The director may develop a training program that covers the handling, control, and techniques of removal of Africanized honey bees or may approve a training program developed by the Pest Control Operators of California or any other equivalent training program, subject to the following requirements:

(1) A certificate of training shall be presented by the training provider to the applicant upon completion of the approved training program.

(2) Providers of approved Africanized honey bee training shall submit to the director a listing of those persons who have completed the training, including, but not limited to, the following information:

(A) The full name of each person who has completed the training.

(B) The license or certificate number of each person who has completed the training, if the person trained is licensed by the Department of Pesticide Regulation.

(3) The providers of approved Africanized honey bee training shall maintain a record for three years of the individuals who have completed the training.

(d) In addition, persons certified by the Department of Pesticide Regulation shall be trained and tested in applicable fish and game codes and regulations governing trapping of mammals.

~~SEC. 9.~~

SEC. 11. Section 14153.2 is added to the Food and Agricultural Code, to read:

14153.2. (a) *The Department of Pesticide Regulation shall work in conjunction with the Structural Pest Control Board and the Department of Fish and Game to formulate regulations that apply to department licensees who are authorized to engage in pest control activities and who engage in trapping animals.*

(b) *The regulations shall ensure the competence and proficiency in the trapping of rats, mice, moles, voles, gophers, squirrels, chipmunks, skunks, and opossums.*

(c) *Regulation topics should include, but not be limited to, species identification, alternatives to trapping, humane treatment of trapped animals, and notification to consumers of lawful disposition of animals prior to services being rendered.*

(d) *The Department of Pesticide Regulation shall incorporate those regulations into required training and testing materials.*

(e) *Paragraph (3) of Section 4005 of the Fish and Game Code shall not become operative until the above regulations are adopted and enacted.*

SEC. 12. Section 14153.3 is added to the Food and Agricultural Code, to read:

14153.3. (a) The department shall adopt regulations on or before July 1, 2006, that apply to its licensees who are authorized to engage in pest control activities and who engage in trapping of animals. The regulations shall require an annual report from those licensees on their animal trapping activities that includes, but is not limited to, the following: the identification of species taken, the location by county in which the species were taken, the

1 disposition of each animal taken including the method of
2 euthanasia, if applicable, the specific method of trapping which
3 was used, including whether the trapping was live-animal
4 trapping, and identify whether animal exclusion techniques were
5 used prior to the use of trapping or other lawful pest control
6 techniques.

7 (b) The regulations shall specify that the reports filed by the
8 licensees shall be public information.

9 (c) The regulations shall provide that the failure to file a report
10 or the filing of an incomplete report shall result in the suspension
11 of a license. The licensing agency may revoke or reinstate the
12 license after written notice is provided to the licensee and after he
13 or she has been afforded an opportunity to be heard.